

# HOUSE . . . . . No. 4144

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## *The Commonwealth of Massachusetts*

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HOUSE OF REPRESENTATIVES, July 11, 2007.

The Committee of Conference on the disagreeing votes of the two branches with reference to the Senate amendments (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2236 and striking out the title and inserting in place thereof the following title: "An Act relative to security freezes and notification of data breaches.") of the House Bill relative to the protection of personal information (House, No. 4018), reports the accompanying bill (House, No. 4144).

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Seven.

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AN ACT RELATIVE TO THE PROTECTION OF PERSONAL INFORMATION.

1 SECTION 1. Chapter 66 of the General Laws is hereby  
2 amended by inserting after section 8A the following section:—

3 Section 8B. Records or documents required to be destroyed or  
4 disposed of in this chapter shall be destroyed or disposed of in the  
5 manner set forth in chapter 931.

1 SECTION 2. Section 2 of said chapter 66A, as appearing in the  
2 2006 Official Edition, is hereby amended by inserting after the  
3 word “fire”, in line 32, the following words:— , identity theft.

1 SECTION 3. Section 50 of chapter 93 of the General Laws, as  
2 so appearing, is hereby amended by inserting after the definition  
3 of “Firm offer of credit” the following definition:—

4 “Identity theft report”, a report that alleges a violation of  
5 section 37E of chapter 266, 18 United States Code, section 1028,  
6 or a similar statute in any other jurisdiction, or a copy of a report  
7 filed by a consumer with an appropriate federal, state or local law  
8 enforcement agency, and the filing of which subjects the person  
9 filing the report to criminal penalties pursuant to section 67B of  
10 chapter 266 or section 13A of chapter 269.

1 SECTION 4. Said section 50 of said chapter 93, as so  
2 appearing, is hereby further amended by inserting after the  
3 definition of “Investigative consumer report” the following  
4 definition:—

5 “Lift”, to suspend a security freeze for the purpose of releasing  
6 a consumer’s credit information to a specific party or for a  
7 specified period of time, as authorized by the consumer.

1 SECTION 5. Said section 50 of said chapter 93 of the General  
2 Laws, as so appearing, is hereby further amended by inserting

3 after the definition of “Medical information” the following  
4 definition:—

5 “Password” or “Personal identification number”, a unique and  
6 random number or a unique and random combination of numbers,  
7 letters or symbols, which shall not contain a consumer’s social  
8 security number or any sequence of 3 or more numbers of a con-  
9 sumer’s social security number, or other personal identifying  
10 information.

1 SECTION 6. Said section 50 of said chapter 93 of the General  
2 Laws, as so appearing, is hereby further amended by inserting  
3 after the definition of “Prescreening” the following 3  
4 definitions:—

5 “Proper identification”, information sufficient to identify a  
6 person, which shall include, but not be limited to, name, address,  
7 social security number and date of birth. Such information shall  
8 not include information concerning the consumer’s employment  
9 and personal or family history unless the consumer is unable to  
10 reasonably identify himself with the information described in the  
11 preceding sentence.

12 “Remove”, to permanently terminate a security freeze.

13 “Security freeze”, a notice placed on a person’s consumer  
14 report by a consumer reporting agency, at the request of the  
15 consumer and subject to certain exceptions, which prohibits the  
16 consumer reporting agency from releasing the report or any  
17 information derived therefrom without the express authorization  
18 of the consumer.

1 SECTION 7. Section 55 of said chapter 93, as so appearing, is  
2 hereby amended by striking out, in line 1, the words “the  
3 provisions of section fifty-one” and inserting in place thereof the  
4 following words:— sections 51 and 62A.

1 SECTION 8. The second subparagraph of subsection (b) of  
2 section 56 of said chapter 93, as so appearing, is hereby amended  
3 by striking out the first sentence and inserting in place thereof the  
4 following 2 sentences:— You have a right to dispute inaccurate  
5 information by contacting the consumer reporting agency directly,  
6 either in writing or by telephone. The consumer reporting agency

7 shall provide, upon request and without unreasonable delay, a live  
8 representative of the consumer reporting agency to assist in  
9 dispute resolution whenever possible and practicable, or to the  
10 extent consistent with federal law.

1 SECTION 9. The last paragraph of said subsection (b) of said  
2 section 56 of said chapter 93, as so appearing, is hereby amended  
3 by striking out the last sentence and inserting in place thereof the  
4 following sentence:— You may be entitled to collect compensa-  
5 tion, in certain circumstances, if you are damaged by a person’s  
6 negligent or intentional failure to comply with the credit reporting  
7 act.

1 SECTION 10. Said subsection (b), of said section 56 of said  
2 chapter 93, as so appearing, is hereby further amended by adding  
3 the following 4 subparagraphs:—

4 You have a right to request a “security freeze” on your  
5 consumer report. The security freeze will prohibit a consumer  
6 reporting agency from releasing any information in your consumer  
7 report without your express authorization. A security freeze shall  
8 be requested by sending a request either by certified mail,  
9 overnight mail or regular stamped mail to a consumer reporting  
10 agency, or as authorized by regulation. The security freeze is  
11 designed to prevent credit, loans or services from being approved  
12 in your name without your consent. You should be aware that  
13 using a security freeze may delay, interfere with, or prevent the  
14 timely approval of any subsequent request or application you  
15 make regarding new loans, credit, mortgage, insurance, govern-  
16 ment services or payments, rental housing, employment,  
17 investment, license, cellular phone, utilities, digital signature,  
18 internet credit card transactions, or other services, including an  
19 extension of credit at point of sale.

20 When you place a security freeze on your consumer report,  
21 within 5 business days of receiving your request for a security  
22 freeze, the consumer reporting agency shall provide you with a  
23 personal identification number or password to use if you choose to  
24 remove the freeze on your consumer report or to authorize the  
25 release of your consumer report to a specific party or for a  
26 specified period of time after the freeze is in place. To provide

27 that authorization, you must contact the consumer reporting  
28 agency and provide the following:

29 (1) the personal identification number or password provided by  
30 the consumer reporting agency;

31 (2) proper identification to verify your identity; and

32 (3) the third party or parties who are to receive the consumer  
33 report or the specified period of time for which the report shall be  
34 available to authorized users of the consumer report.

35 A consumer reporting agency that receives a request from a  
36 consumer to lift a freeze on a consumer report shall comply with  
37 the request not later than 3 business days after receiving the  
38 request.

39 A security freeze shall not apply to a person or entity, or to its  
40 affiliates, or collection agencies acting on behalf of the person or  
41 entity, with which you have an existing account, that requests  
42 information relative to your consumer report for the purposes of  
43 reviewing or collecting the account, if you have previously given  
44 consent to the use of your consumer report. "Reviewing the  
45 account" includes activities related to account maintenance,  
46 monitoring, credit line increases, and account upgrades and  
47 enhancements."

1 SECTION 11. Said chapter 93, as so appearing, is hereby  
2 further amended by inserting after section 62 the following  
3 section:—

4 Section 62A. If a consumer requests a security freeze, the  
5 consumer reporting agency shall disclose to the consumer the  
6 process of placing, removing and lifting a security freeze. A  
7 consumer reporting agency shall require proper identification of  
8 the person making a request to place, lift or remove a security  
9 freeze.

10 A consumer may request that a security freeze be placed on his  
11 consumer report by sending a request to a consumer reporting  
12 agency by certified mail, overnight mail or regular stamped mail  
13 to an address designated by the consumer reporting agency to  
14 receive such requests, or by a method otherwise permitted by  
15 regulation. If a security freeze is in place, the information from a  
16 consumer report shall not be released to a third party without prior  
17 express authorization from the consumer. This section shall not

18 prohibit a consumer reporting agency from advising a third party  
19 that a security freeze is in effect with respect to the consumer  
20 report.

21 A consumer reporting agency shall place a security freeze on a  
22 consumer report not later than 3 business days after receiving a  
23 request from the consumer. The consumer reporting agency shall  
24 send a written confirmation of the security freeze to the consumer  
25 within 5 business days after receiving the request and shall  
26 provide the consumer with a unique personal identification  
27 number or a unique password, or both, to be used by the consumer  
28 for the purpose of providing authorization for the removal or  
29 lifting of the security freeze.

30 If the consumer wishes to lift a security freeze that is in place,  
31 he shall contact the consumer reporting agency, request that the  
32 freeze be lifted, and provide proper identification, the personal  
33 identification number or password, or both, provided by the  
34 consumer reporting agency, and the third party who is to receive  
35 the consumer report or the specified period of time for which the  
36 report shall be available to authorized users of the consumer  
37 report.

38 A consumer reporting agency that receives a request from a  
39 consumer to lift a security freeze on a consumer report pursuant to  
40 this chapter shall comply with the request as soon as practicable  
41 and without unreasonable delay, but under no circumstances not  
42 later than 3 business days after receiving the request.

43 A security freeze shall remain in place until the consumer  
44 requests that the security freeze be lifted or removed in  
45 accordance with this section; provided, however, that a consumer  
46 reporting agency may remove a security freeze if the consumer  
47 report was frozen due to a material misrepresentation of fact. If a  
48 consumer reporting agency intends to remove a freeze on a  
49 consumer report due to a material misrepresentation of fact by the  
50 consumer, the consumer reporting agency shall notify the  
51 consumer in writing 5 business days prior to removing the freeze  
52 on the consumer report.

53 While a security freeze is in place, a consumer reporting  
54 agency shall not change any of the following official information  
55 in a consumer report without sending a written confirmation of the  
56 change to the consumer within 30 days of the change being posted

57 to the consumer report: name, date of birth, social security  
58 number, and address. Written confirmation shall not be required  
59 for technical modifications of information contained in a  
60 consumer report, including name and street abbreviations,  
61 complete spellings, or transposition of numbers or letters. In the  
62 case of an address change, the written confirmation shall be sent  
63 to both the new address and to the former address.

64 If a third party requests access to a consumer report on which a  
65 security freeze is in effect, and this request is submitted in  
66 connection with an application for credit or any other use, and the  
67 consumer does not allow his or her consumer report to be  
68 accessed for that specific party or for that specified period of time,  
69 the third party shall treat the application as incomplete.

70 A consumer reporting agency shall remove a security freeze  
71 within 3 business days of receiving a request for removal from a  
72 consumer who provides both proper identification and the  
73 personal identification number or password provided by the  
74 consumer reporting agency pursuant to this section.

75 This section shall not apply to the use of a consumer report by  
76 any of the following:

77 1) a person or agent thereof, or an assignee of a financial  
78 obligation owing by the consumer to such person or agent  
79 thereof, or a prospective assignee of a financial obligation  
80 owing by the consumer to that person or agent thereof in  
81 conjunction with the proposed purchase of the financial  
82 obligation, with which the consumer has or had, prior to  
83 assignment, an account or contract, including a demand  
84 deposit account, or to whom the consumer issued a nego-  
85 tiable instrument, for the purposes of reviewing the account  
86 or collecting the financial obligation owing for the account,  
87 contract or negotiable instrument. For purposes of this para-  
88 graph, "reviewing the account" shall include activities  
89 related to account maintenance, monitoring, credit line  
90 increases and account upgrades and enhancements; or access  
91 to said account by a subsidiary, affiliate, agent, assignee or  
92 prospective assignee of a person, or agent thereof, to whom  
93 access has been granted for purposes of facilitating the  
94 extension of credit or other permissible use;

- 95 2) any federal, state or local agency, law enforcement agency,  
96 or trial court acting pursuant to a court order, warrant or  
97 subpoena;
- 98 3) the Massachusetts child support agency under Title IV-D of  
99 the Social Security Act, 42 U.S.C. et seq;
- 100 4) the executive office of health and human services or its  
101 agents or assigns acting to investigate Medicaid fraud;
- 102 5) the department of revenue or its agents or assigns acting to  
103 investigate or collect delinquent taxes or unpaid court orders  
104 or to fulfill any of its other statutory responsibilities;
- 105 6) a person using credit information for the purposes of  
106 prescreening as provided for by the federal Fair Credit  
107 Reporting Act;
- 108 7) any person administering a credit file monitoring subscrip-  
109 tion service to which the consumer has subscribed;
- 110 8) any person acting solely for the purpose of providing a  
111 consumer with a copy of his consumer report upon the  
112 consumer's request; or
- 113 9) to the extent otherwise allowed by statute, any property and  
114 casualty insurer licensed by the commonwealth for use in  
115 rating or underwriting insurance policies.
- 116 Nothing in this chapter shall prevent a consumer reporting  
117 agency from charging a reasonable fee, not to exceed \$5, to a  
118 consumer who elects to freeze, lift or remove a freeze to a  
119 consumer report, except that a consumer reporting agency shall  
120 not charge a fee to a victim of identity theft or his spouse,  
121 provided that the victim has submitted a valid police report  
122 relating to the identity theft to the consumer reporting agency.
- 123 The following persons shall not be required to place a security  
124 freeze on a consumer report:
- 125 1) a check services or fraud prevention services company,  
126 which issues reports on incidents of fraud or authorizations for the  
127 purpose of approving or processing negotiable instruments,  
128 electronic funds transfers or similar methods of payments;
- 129 2) a deposit account information service company, which issues  
130 reports regarding account closures due to fraud, substantial over-  
131 drafts, ATM abuse, or similar negative information regarding a  
132 consumer, to inquiring banks or other financial institutions for use  
133 only in reviewing a consumer request for a demand deposit  
134 account at the inquiring bank; or



135 3) a consumer reporting agency that acts only as a reseller of  
136 credit information by assembling and merging information  
137 contained in the database of another consumer reporting agency or  
138 multiple consumer reporting agencies, and does not maintain a  
139 permanent database of credit information from which new con-  
140 sumer reports are produced, except that such financial institution  
141 or consumer reporting agency shall be subject to any security  
142 freeze placed on a consumer report by another consumer reporting  
143 agency from which it obtains information.

144 Notwithstanding any general or special law to the contrary, the  
145 director of consumer affairs and business regulation, in consulta-  
146 tion with the secretary of housing and economic development,  
147 shall promulgate rules and regulations for the purpose of expe-  
148 diting the methods of requesting, lifting and removing security  
149 freezes through technological advancements, consistent with this  
150 section and designed to benefit consumers.

1 SECTION 12. Section 58 of said chapter 93, as so appearing, is  
2 hereby amended by inserting after the word “writing”, in line17,  
3 the following words:— , but shall provide consumers with the  
4 option of speaking with a live representative at any time during  
5 the dispute resolution process, whenever possible and practicable  
6 or to the extent consistent with federal law.

1 SECTION 13. Said section 58 of said chapter 93, as so  
2 appearing, is hereby further amended by adding the following  
3 paragraph:—

4 (j) At any time during the dispute process described in this  
5 section, the consumer shall have the right to request to speak to a  
6 live representative from the consumer reporting agency in an  
7 attempt to resolve the dispute. The consumer reporting agency  
8 shall maintain a toll-free telephone number available to consumers  
9 for such purpose and shall notify consumers of its availability  
10 whenever possible and practicable or to the extent consistent with  
11 federal law”.

1 SECTION 14. Section 63 of said chapter 93, as so appearing, is  
2 hereby amended by striking out, in line 4, the words “fifty to  
3 sixty-two” and inserting in place thereof the following figures:—  
4 50 to 62A.

1 SECTION 15. Section 64 of said chapter 93, as so appearing, is  
2 hereby amended by striking out, in line 4, the words “fifty to  
3 sixty-two”, and inserting in place thereof the following figures:—  
4 50 to 62A.

1 SECTION 16. The General Laws are hereby further amended  
2 by inserting after chapter 93G the following 2 chapters:—

3 **CHAPTER 93H.**

4 **SECURITY BREACHES.**

5 Section 1. (a) As used in this chapter, the following words  
6 shall, unless the context clearly requires otherwise, have the  
7 following meanings:

8 “Agency”, any agency, executive office, department, board,  
9 commission, bureau, division or authority of the commonwealth,  
10 or any of its branches, or of any political subdivision thereof.

11 “Breach of security “, the unauthorized acquisition or unautho-  
12 rized use of unencrypted data or, encrypted electronic data and the  
13 confidential process or key that is capable of compromising the  
14 security, confidentiality, or integrity of personal information,  
15 maintained by a person or agency that creates a substantial risk of  
16 identity theft or fraud against a resident of the commonwealth. A  
17 good faith but unauthorized acquisition of personal information by  
18 a person or agency, or employee or agent thereof, for the lawful  
19 purposes of such person or agency, is not a breach of security  
20 unless the personal information is used in an unauthorized manner  
21 or subject to further unauthorized disclosure.

22 “Data” any material upon which written, drawn, spoken, visual,  
23 or electromagnetic information or images are recorded or  
24 preserved, regardless of physical form or characteristics.

25 “Electronic”, relating to technology having electrical,  
26 digital, magnetic, wireless, optical, electromagnetic or similar  
27 capabilities.

28 “Encrypted” transformation of data through the use of a 128-bit  
29 or higher algorithmic process into a form in which there is a low  
30 probability of assigning meaning without use of a confidential  
31 process or key, unless further defined by regulation of the depart-  
32 ment of consumer affairs and business regulation.

33 “Notice” shall include:

34 (i) written notice;

35 (ii) electronic notice, if notice provided is consistent with the  
36 provisions regarding electronic records and signatures set forth in  
37 § 7001 (c) of Title 15 of the United States Code; and chapter 110G  
38 of the General Laws; or

39 (iii) substitute notice, if the person or agency required to  
40 provide notice demonstrates that the cost of providing written  
41 notice will exceed \$250,000, or that the affected class of Massa-  
42 chusetts residents to be notified exceeds 500,000 residents, or that  
43 the person or agency does not have sufficient contact information  
44 to provide notice.

45 “Person”, a natural person, corporation, association, partnership  
46 or other legal entity.

47 “Personal information” a resident’s first name and last name or  
48 first initial and last name in combination with any 1 or more of the  
49 following data elements that relate to such resident:

50 a. Social Security number;

51 b. driver’s license number or state-issued identification card  
52 number; entity.

53 or

54 c. financial account number, or credit or debit card number,  
55 with or without any required security code, access code, personal  
56 identification number or password, that would permit access to a  
57 resident’s financial account; however.

58 “Personal information” shall not include information that is  
59 lawfully obtained from publicly available information, or from  
60 federal, state or local government records lawfully made available  
61 to the general public.

62 “Substitute notice”, shall consist of all of the following:

63 (i) electronic mail notice, if the person or agency has electronic  
64 mail addresses for the members of the affected class of Massachu-  
65 setts residents; and

66 (ii) clear and conspicuous posting of the notice on the home  
67 page of the person or agency if the person or agency maintains a  
68 website; and

69 (iii) publication in or broadcast through media or medium that  
70 provides notice throughout the state.

71 (b) The department of consumer affairs and business regulation  
72 may adopt regulations, from time to time, to revise the definition  
73 of “encrypted”, as used in this chapter, to reflect applicable  
74 technological advancements.

75 Section 2. (a) The department of consumer affairs and business  
76 regulation shall adopt regulations relative to any person that owns  
77 or licenses personal information about a resident of the common-  
78 wealth. Such regulations shall be designed to safeguard the  
79 personal information of residents of the commonwealth and shall  
80 be consistent with the safeguards for protection of personal  
81 information set forth in the federal regulations by which the  
82 person is regulated. The objectives of the regulations shall be to:  
83 insure the security and confidentiality of customer information in  
84 a manner fully consistent with industry standards; protect against  
85 anticipated threats or hazards to the security or integrity of such  
86 information; and protect against unauthorized access to or use of  
87 such information that may result in substantial harm or inconve-  
88 nience to any consumer. The regulations shall take into account  
89 the person’s size, scope and type of business, the amount of  
90 resources available to such person, the amount of stored data, and  
91 the need for security and confidentiality of both consumer and  
92 employee information.

93 (b) The division of public records shall establish rules or  
94 regulations designed to safeguard the personal information of  
95 residents of the commonwealth that is owned or licensed. Such  
96 rules or regulations shall be applicable to: (1) executive offices  
97 and any agencies, departments, boards, commissions and instru-  
98 mentalities within an executive office; and (2) any authority  
99 created by the General Court, and the rules and regulations shall  
100 take into account the size, scope and type of services provided  
101 thereby, the amount of resources available thereto, the amount of  
102 stored data, and the need for security and confidentiality of both  
103 consumer and employee information. The objectives of the rules  
104 or regulations shall be to: insure the security and confidentiality of  
105 personal information; protect against anticipated threats or  
106 hazards to the security or integrity of such information; and to  
107 protect against unauthorized access to or use of such information  
108 that could result in substantial harm or inconvenience to any  
109 resident of the commonwealth.

110 (c) The legislative branch, the judicial branch, the attorney  
111 general, the state secretary, the state treasurer and the state auditor  
112 shall adopt rules or regulations designed to safeguard the personal  
113 information of residents of the commonwealth for their respective  
114 departments and shall take into account the size, scope and type of  
115 services provided by their departments, the amount of resources  
116 available thereto, the amount of stored data, and the need for  
117 security and confidentiality of both consumer and employee  
118 information. The objectives of the rules or regulations shall be to:  
119 insure the security and confidentiality of customer information in  
120 a manner fully consistent with industry standards; protect against  
121 anticipated threats or hazards to the security or integrity of such  
122 information; and protect against unauthorized access to or use of  
123 such information that could result in substantial harm or inconve-  
124 nience to any resident of the commonwealth.

125 Section 3. (a) A person or agency that maintains or stores, but  
126 does not own or license data that includes personal information  
127 about a resident of the commonwealth, shall provide notice, as  
128 soon as practicable and without unreasonable delay, when such  
129 person or agency (1) knows or has reason to know of a breach of  
130 security or (2) when the person or agency knows or has reason to  
131 know that the personal information of such resident was acquired  
132 or used by an unauthorized person or used for an unauthorized  
133 purpose, to the owner or licensor in accordance with this chapter.  
134 In addition to providing notice as provided herein, such person or  
135 agency shall cooperate with the owner or licensor of such infor-  
136 mation. Such cooperation shall include, but not be limited to,  
137 informing the owner or licensor of the breach of security or  
138 unauthorized acquisition or use, the date or approximate date of  
139 such incident and the nature thereof, and any steps the person or  
140 agency has taken or plans to take relating to the incident, except  
141 that such cooperation shall not be deemed to require the disclosure  
142 of confidential business information or trade secrets, or to provide  
143 notice to a resident that may have been affected by the breach of  
144 security or unauthorized acquisition or use.

145 (b) A person or agency that owns or licenses data that includes  
146 personal information about a resident of the commonwealth, shall  
147 provide notice, as soon as practicable and without unreasonable  
148 delay, when such person or agency (1) knows or has reason to

149 know of a breach of security or (2) when the person or agency  
150 knows or has reason to know that the personal information of such  
151 resident was acquired or used by an unauthorized person or used  
152 for an unauthorized purpose, to the attorney general, the director  
153 of consumer affairs and business regulation and to such resident,  
154 in accordance with this chapter. The notice to be provided to the  
155 attorney general and said director, and consumer reporting  
156 agencies or state agencies if any, shall include, but not be limited  
157 to, the nature of the breach of security or unauthorized acquisition  
158 or use, the number of residents of the commonwealth affected by  
159 such incident at the time of notification, and any steps the person  
160 or agency has taken or plans to take relating to the incident.

161 Upon receipt of this notice, the director of consumer affairs and  
162 business regulation shall identify any relevant consumer reporting  
163 agency or state agency, as deemed appropriate by said director,  
164 and forward the names of the identified consumer reporting  
165 agencies and state agencies to the notifying person or agency.  
166 Such person or agency shall, as soon as practicable and without  
167 unreasonable delay, also provide notice, in accordance with this  
168 chapter, to the consumer reporting agencies and state agencies  
169 identified by the director of consumer affairs and business  
170 regulation.

171 The notice to be provided to the resident shall include, but not  
172 be limited to, the consumer's right to obtain a police report, how a  
173 consumer requests a security freeze and the necessary information  
174 to be provided when requesting the security freeze, and any fees  
175 required to be paid to any of the consumer reporting agencies,  
176 provided however, that said notification shall not include the  
177 nature of the breach or unauthorized acquisition or use or the  
178 number of residents of the commonwealth affected by said breach  
179 or unauthorized access or use.

180 (c) If an agency is within the executive department, it shall  
181 provide written notification of the nature and circumstances of the  
182 breach or unauthorized acquisition or use to the information  
183 technology division and the division of public records as soon as  
184 practicable and without unreasonable delay following the  
185 discovery of a breach of security or unauthorized acquisition or  
186 use, and shall comply with all policies and procedures adopted by  
187 that division pertaining to the reporting and investigation of such  
188 an incident.

189 Section 4. Notwithstanding section 3, notice may be delayed if  
190 a law enforcement agency determines that provision of such  
191 notice may impede a criminal investigation and has notified the  
192 attorney general, in writing, thereof and informs the person or  
193 agency of such determination. If notice is delayed due to such  
194 determination and as soon as the law enforcement agency deter-  
195 mines and informs the person or agency that notification no longer  
196 poses a risk of impeding an investigation, notice shall be  
197 provided, as soon as practicable and without unreasonable delay.  
198 The person or agency shall cooperate with law enforcement in its  
199 investigation of any breach of security or unauthorized acquisition  
200 or use, which shall include the sharing of information relevant to  
201 the incident; provided however, that such disclosure shall not  
202 require the disclosure of confidential business information or  
203 trade secrets.

204 Section 5. This chapter does not relieve a person or agency  
205 from the duty to comply with requirements of any applicable  
206 general or special law or federal law regarding the protection and  
207 privacy of personal information; provided however, a person who  
208 maintains procedures for responding to a breach of security  
209 pursuant to federal laws, rules, regulations, guidance, or guide-  
210 lines, is deemed to be in compliance with this chapter if the  
211 person notifies affected Massachusetts residents in accordance  
212 with the maintained or required procedures when a breach occurs;  
213 provided further that the person also notifies the attorney general  
214 and the director of the office of consumer affairs and business  
215 regulation of the breach as soon as practicable and without unrea-  
216 sonable delay following the breach. The notice to be provided to  
217 the attorney general and the director of the office of consumer  
218 affairs and business regulation shall consist of, but not be limited  
219 to, any steps the person or agency has taken or plans to take  
220 relating to the breach pursuant to the applicable federal law, rule,  
221 regulation, guidance or guidelines; provided further that if said  
222 person or agency does not comply with applicable federal laws,  
223 rules regulations, guidance or guidelines, then it shall be subject  
224 to the provisions of this chapter.

225 Section 6. The attorney general may bring an action pursuant to  
226 section 4 of chapter 93A against a person or otherwise to remedy  
227 violations of this chapter and for other relief that may be  
228 appropriate.

229

**CHAPTER 93I.**

230

**DISPOSITION AND DESTRUCTION OF RECORDS.**

231 Section 1. As used in this chapter the following words shall,  
232 unless the context clearly requires otherwise, have the following  
233 meanings:

234 “Agency”, any county, city, town, or constitutional office or  
235 any agency thereof, including but not limited to, any department,  
236 division, bureau, board, commission or committee thereof, or any  
237 authority created by the general court to serve a public purpose,  
238 having either statewide or local jurisdiction.

239 “Data subject”, an individual to whom personal information  
240 refers.

241 “Person”, a natural person, corporation, association, partnership  
242 or other legal entity.

243 “Personal information”, a resident’s first name and last name or  
244 first initial and last name in combination with any 1 or more of the  
245 following data elements that relate to the resident:

246 a. Social Security number;

247 b. driver’s license number or Massachusetts identification card  
248 number;

249 c. financial account number, or credit or debit card number,  
250 with or without any required security code, access code, personal  
251 identification number or password that would permit access to a  
252 resident’s financial account; or

253 d. a biometric indicator.

254 Section 2. When disposing of records, each agency or person  
255 shall meet the following minimum standards for proper disposal  
256 of records containing personal information:

257 (a) paper documents containing personal information shall be  
258 either redacted, burned, pulverized or shredded so that personal  
259 data cannot practicably be read or reconstructed;

260 (b) electronic media and other non-paper media containing  
261 personal information shall be destroyed or erased so that personal  
262 information cannot practicably be read or reconstructed.

263 Any agency or person disposing of personal information may  
264 contract with a third party to dispose of personal information in  
265 accordance with this chapter. Any third party hired to dispose of



266 material containing personal information shall implement and  
267 monitor compliance with policies and procedures that prohibit  
268 unauthorized access to or acquisition of or use of personal  
269 information during the collection, transportation and disposal of  
270 personal information.

271 Any agency or person who violates the provisions of this  
272 chapter shall be subject to a civil fine of not more than \$100 per  
273 data subject affected, provided said fine shall not exceed \$50,000  
274 for each instance of improper disposal. The attorney general may  
275 file a civil action in the superior or district court in the name of  
276 the commonwealth to recover such penalties.

277 Section 3. The attorney general may bring an action pursuant to  
278 section 4 of chapter 93A against a person or otherwise to remedy  
279 violations of this chapter and for other relief that may be  
280 appropriate.

1 SECTION 17. Section 37E of chapter 266 of the General Laws,  
2 as appearing in the 2006 Official Edition, is hereby amended by  
3 adding the following subsection:—

4 (f) A law enforcement officer shall accept a police incident  
5 report from a victim and shall provide a copy to such victim, if  
6 requested, within 24 hours. Such police incident reports may be  
7 filed in any county where a victim resides, or in any county where  
8 the owner or license holder of personal information stores or  
9 maintains said personal information, the owner or license holder's  
10 principal place of business or any county in which the breach of  
11 security occurred, in whole or in part.

1 SECTION 18. Chapter 931 of the General Laws, inserted by  
2 section 16 of this act, shall take effect as of February 3, 2008.